IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 7161 of 2007(S)

CRIME NO.449/07 OF PERAMBARA POLICE STATION
.....

PETITIONER/ACCUSED NO.1

SUNIL KUMAR V.P., S/O. KUNHIKRISHNAN NAIR, AGED 37 YEARS, KANDOTH MEETHAL HOUSE, KALPATHUR AMSOM, RAMALLUR DESOM, KALPATHUR P.O., KOZHIKODE.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, REPRESENTING S.I. OF POLICE, PERAMBRA POLICE STATION.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7161 of 2007

Dated this the 21st day of November 2007

O R D E R

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. He faces allegations of matrimonial cruelty punishable under Section 498A I.P.C. Crime has been registered on the basis of a complaint lodged by the de facto complainant before the police while she was admitted in the hospital as an in-patient. It is alleged that the petitioner was guilty of physical cruelty against the de facto complainant. Marriage took place about 2 ½ years back prior to the filing of the F.I statement. One child has been born in the wedlock. There is strain in the matrimony.

2. The learned counsel for the petitioner submits that because of the strain in the matrimony, unfounded and exaggerated allegations are being raised against the petitioner. The father of the victim, that is the father-in-law of the petitioner is a Head Constable in the police force and making use of the influence and with the intention of vexing and harassing the petitioner, allegations of culpable conduct are being raised against the petitioner. The petitioner may, in these circumstances, be granted anticipatory bail, prays the learned counsel for the petitioner.

3. The learned Public Prosecutor, on instructions, submits that though the F.I statement is lodged by the victim when she was admitted in the hospital, a perusal of the records reveals that the victim has not suffered any external injuries. The learned Public Prosecutor does not, in these circumstances, oppose the application for anticipatory bail.

4. In the facts and circumstances of this case, I reckon that a reasonable stand taken by the learned Public Prosecutor. Arrest and incarceration of the petitioner in custody is likely to mar all possibilities of harmonious settlement of the matrimonial dispute. Appropriate conditions can of course be imposed in the interests of a fair, efficient and expeditious investigation. I am satisfied that the petitioner can be granted anticipatory bail.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 28/11/2007. He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two

solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 29/11/2007 and 30/11/2007 and thereafter on all Sundays between 10 a.m and 12 noon for a period of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 28/11/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 28/11/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007